

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** is made as of \_\_\_\_\_, 2009, (this "Agreement"), by and between El Dorado County ("County") and El Dorado County Habitat for Humanity, Inc., a California nonprofit corporation or its assigns ("Habitat").

### RECITALS

- A. Habitat is a California nonprofit public benefit corporation organized under Section 501 (c)(3) of the IRS Code;
- B. Habitat's tax exempt purposes include, among other things the development of affordable for sale housing.
- C. Habitat has applied to the County for a loan in the amount of \$130,000 to be used solely toward the development of a 25 unit homebuyer project ("the Development") in Diamond Springs, in the unincorporated area of El Dorado County, CA. Mortgages will be affordable to households with incomes of no more than 50% of the area median income.
- D. Habitat has obtained the right to purchase the land to be developed as the Development.
- E. County in reliance upon information provided by Habitat about the Development now wishes to make a loan in the amount of \$130,000 to Habitat for expenses associated with the Development.

NOW, THEREFORE, in consideration of the promises and mutual covenants and undertakings herein contained, the parties hereto, intending to be bound, hereby agree as follows:

1. Agreement to Lend. Subject to the terms and conditions of this Agreement, County shall lend to Habitat One Hundred Thirty Thousand Dollars (\$130,000) (the "Loan"). The Loan shall be evidenced by a promissory note dated as of the date of this Agreement and in the form approved by Habitat and County. The Loan shall bear 1% simple interest per annum.
2. Loan Repayment. Maker agrees to pay the sum of \$130,000 with interest from the date of execution on unpaid principle at the rate of 1% per annum. Payments shall be made according to the following terms:

Principle and interest payable in 60 monthly installments of \$2,222.19 beginning 30 days of the execution of this Note and the Loan Agreement of same date and continuing until

\_\_\_\_\_

This Note shall become immediately due and payable in full with accrued interest:

- i. Upon 90 days written notice to Maker, at any time after \_\_\_\_\_, if the County determines, at its sole discretion, that the developer cannot produce the housing described in Recital C of the Loan Agreement; or
- ii. Five years from the date of execution of the Loan Agreement.

3. Purpose and use of Loan proceeds. Habitat will use the Loan proceeds to pay architectural, engineering, environmental, building and planning permits and fees for the Development, or any other uses approved in writing by the County.
4. Recourse. If Habitat fails to repay the Loan under the terms enumerated in paragraph 2, the Loan shall constitute a full recourse obligation of Habitat or its assigns.
5. County's Remedies. Upon the happening of an Event of Default, the County may pursue any remedy allowed at law or in equity, including but not limited to, accelerating payment under the Note or applying to any State court for specific performance of this Agreement.
6. Records & Reports. Habitat shall make its records pertaining to this Development available for inspection by the County during normal business hours for the purpose of allowing the County to confirm compliance with the Agreement. Habitat shall provide a semi-annual written report of the progress on the development to the Contract Administrator identified in Paragraph 14. The first report shall be submitted by **(Date to be determined)**; subsequent reports will be submitted every six months thereafter until the loan is repaid in full.
7. Assignment. This Agreement shall inure to the benefit of, and be binding on, the parties, their respective successors and assigns; provided, however that Habitat may not assign this Agreement without County's written consent.
8. Conflict of Interest. No employee, agent, consultant, officer, elected or appointed official or member of the County has or may obtain a personal or financial interest in or benefit from the Borrower or the Development or in any contract or subcontract or agreement, or the proceeds thereof, relating to the Development either for themselves or for those with whom they have family or business ties, during their tenure or one year thereafter.
9. Nondiscrimination. The Borrower shall not discriminate against any prospective tenant in the use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Development on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, marital status, family status, source of income, physical or mental disability. Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC), or any other arbitrary basis. The Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination in housing.
10. Hold Harmless.
  - (a) The Borrower hereby agrees to, and shall, hold County, its elective and appointive boards, officers, agents and employees, harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from the Borrower's operations under this Agreement, whether such operations be by the Borrower or subcontractor, or by any one of more persons directly or indirectly employed by, or acting as agent for, the Borrower or any subcontractor. The Borrower agrees to, and shall, hold the County, its elective and appointive boards, officers, agents and employees harmless from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of any of the aforesaid operations.

- (b) The Borrower agrees to provide all costs of any necessary legal defense and all attorneys' fees incurred in defending any claim, whether or not actually filed in any court.

11. Amendment. This Agreement may be amended only in writing signed by authorized representatives of the County and the Borrower; the County Administrator, or designee of the County shall be authorized to act on behalf of the County.
12. Notice. Any notice required or authorized under this Agreement shall be effective if, and only if, in writing and if, and only if, mailed, postage prepaid, by registered or certified mail, to the party in question at the address shown below:
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| County:   | County of El Dorado<br>Department of Human Services<br>937 Spring Street<br>Placerville, CA 95667<br>Attn: Housing Programs |
| Borrower: | El Dorado County Habitat for Humanity<br>180 Industrial Drive, Bldg E<br>Placerville, CA 95667                              |
13. No Waiver. No failure to enforce or delay in enforcing or exercising any right or remedy available under this Agreement shall impair the exercise of such right or remedy or the exercise of a similar right or remedy on a subsequent occasion.
14. Contract Administrator. The County Officer or employee with responsibility for administering this Agreement is Doug Nowka, Director, Department of Human Services, or successor.
15. Severability. Should any provision of this Agreement be found invalid by a court or other body of competent jurisdiction, said invalidity or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in force to the maximum extent possible.
16. Titles and Headings. The titles and headings in this Agreement are for convenience only and shall not be construed to affect the meaning or construction of any provision of this Agreement.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
18. Attorneys' Fees. The prevailing party shall be entitled to receive the amount of its legal expenses, including reasonable attorneys' fees, expert legal fees and other legal costs and expenses, in the event of any legal action brought under or to enforce the provisions of this Agreement.
19. Signs. During the construction period, should Borrower place or cause to be placed signs on the property stating the County is providing financing, the signs shall indicate in a typeface and size commensurate with its funds that El Dorado County is a source of financing.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

EL DORADO COUNTY HABITAT FOR HUMANITY, INC.

BY: \_\_\_\_\_  
Candy Alexander  
President

BY: : \_\_\_\_\_  
Scott Saitman  
Treasurer

COUNTY OF EL DORADO

BY: \_\_\_\_\_  
Doug Nowka, Director  
Department of Human Services